

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.130 of 2023

Arising Out of PS. Case No.-277 Year-2022 Thana- JALALPUR District- Saran

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1. UDAY NATH MISHRA @ UDAY NATH MISHR SON OF TIRTHANAND MISHRA R/O VILLAGE- MISHRAWLIYA @ MISRAULIYA, P.S.- JALALPUR, DISTRICT- SARAN
 2. MANOJ KUMAR MISHRA @ MANOJ MISHRA @ MANOJ KUMAR MISHR SON OF UDAY NATH MISHRA @ UDAY NATH MISHR R/O VILLAGE- MISHRAWLIYA @ MISRAULIYA, P.S.- JALALPUR, DISTRICT- SARAN

... .. Appellant/s

Versus

1. The State of Bihar
2. RAM KRIPAL SAH SON OF LATE DHURANDHAR SAH R/O VILLAGE- MISHRAWLIYA, P.S.- JALALPUR, DISTRICT- SARAN

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dr. Rajesh Kumar Singh, Adv.
For the Respondent/s : Mrs.Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 22-03-2023 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

In compliance of the order of this Court, learned Spl.P.P.
for the State informed the complainant about his appearance in
this case but nobody appears on his behalf.

This is an appeal under section 14 A (2) of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act,
1989 (hereinafter in short referred to as the 'SC/ST Act') against
the refusal of prayer for anticipatory bail vide order dated
17.11.2022, passed by learned Additional Sessions Judge-3rd,



Saran, in connection with Jalalpur P.S. Case No.277 of 2022, registered u/s 323, 341, 436 of the IPC and section 3(i)(r)(s) of the SC/ST Act.

As per F.I.R., the accused persons abused the complainant by his caste name and on protest, the appellants assaulted him with shoes and threatened to kill him, if he does not leave from the village. Thereafter, they put his house on fire.

It is submitted by learned counsel for the appellants that the appellants are innocent and have not committed any offence. No such occurrence, in the manner as alleged has ever taken place. Appellants have been falsely implicated in the case with frivolous allegation. It is submitted that no offence under the SC/ST Act is made out against the appellants as there is no specific overt act against them to have abused the complainant by taking his caste name. Appellant no.1 is a retired Army personnel, aged about 73 years and appellant no.2 is the driver of vehicle of the Saraswati Sishu Vidya Mandir, Chapra and they were not present at the place of occurrence, on the alleged date. The alleged date of occurrence is 15.04.2022 while the Complaint case was filed on 01.09.2022, i.e. after delay of more than 125 days without giving any plausible explanation regarding the delay, which itself creates serious doubt about the



prosecution case. Furthermore, the house caught fire because of nearby bamboo clamp and it was extinguished with the help of Fire Brigade, which is clear from the report of Fire Brigade Department vide memo no.92 dated 06.05.2022 (Annexure-2), where it has been stated that fire devolved from the Garbage. Appellants have no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for bail.

Considering the facts and circumstances of the case and considering the delay in lodging the F.I.R., let the appellants named above, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-3rd, Saran, in connection with Jalalpur P.S. Case No.277 of 2022, subject to the condition as laid down under section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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